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99th Congress, 2d Session - - - - - - - - - - House Document 99-192

MF144

STATUS OF BUDGET AUTHORITY

COMMUNICATION

FROM

THE ACTING COMPTROLLER GENERAL OF THE UNITED STATES

TRANSMITTING

NOTIFICATION OF HIS INTENTION TO INSTITUTE A CIVIL ACTION IN THE U.S. DISTRICT COURT TO REQUIRE THAT THE BUDGET AUTHORITY OF TWO APPROPRIATION ACCOUNTS, MARITIME ADMINISTRATION [MarAd] OPERATIONS AND TRAINING ACCOUNT AND URBAN MASS TRANSPORTATION ADMINISTRATION [UMTA] DISCRETIONARY GRANTS, BE MADE AVAILABLE FOR OBLIGATION, PURSUANT TO 2 U.S.C. 687

ORIGINAL

APRIL 9, 1986.—Referred to the Committee on Appropriations and ordered to be printed

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COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, DC, March 27, 1986.

B-220532.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: As required by section 1016 of the Impoundment Control Act (the Act), 2 U.S.C. § 687, this is to advise you of the status of budget authority of two appropriation accounts, Maritime Administration (Mar Ad) operations and training account and Urban Mass Transportation Administration (UMTA) discretionary grants, which the President is withholding contrary to the Act.

MARITIME ADMINISTRATION DEFERRAL

Pursuant to section 1013(a) of the Act, 2 U.S.C. § 684(a), the President reported to the Congress on February 6, 1985, the deferral of $8.5 million appropriated to the Department of Transportation, Maritime Administration, for the acquisition and preconversion costs of a replacement training vessel for the State University of New York Maritime College. The President proposed to transfer the funds to other Mar Ad activites. On August 15, 1985, the Congress passed legislation, the Supplemental Appropriations Act for fiscal year 1985, which the President signed, expressly disapproving the deferral. Pub. L. No. 99-88, 99 Stat. 300 (1985).

Under section 1013(b) of the Act, 2 U.S.C. § 684(b), funds proposed for deferral must be made available for obligation if either House of Congress passes an impoundment resolution disapproving the deferral. The Mar Ad budget authority was made available, but was not obligated. On February 5, 1986, the President announced a deferral of $9,350,000, which includes the $8.5 million that was subject to the earlier, disapproved deferral. The President, again, proposes to transfer the funds to other Mar Ad activities. Because the Congress has already made a judgment that the training vessel is needed and that the funds for the vessel should not be transferred, we believe the current withholding is in violation of the Supplemental Appropriations Act and the Impoundment Control Act.

Section 1016 of the Act, 2 U.S.C. § 687, authorizes the Comptroller General to institute a civil action in the United States District Court for the District of Columbia to require the release of budget authority that is to be made available pursuant to section 1013(b), 2 U.S.C. § 684(b). Section 1016 also provides that the Comptroller General is to file with the Congress an explanatory statement of the circumstances giving rise to the action contemplated. The Comptroller General may not bring a civil action until the expiration of 25 calendar days of continuous congressional session after the date on which the explanatory statement is filed.

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On the basis of the present circumstances, we contemplate bringing a civil action to compel release of the Mar Ad budget authority. Because of a scheduled interruption in the congressional session, from March 26 through April 7, the 25-day period of continuous session which under section 1016 of the Act must elapse before we can bring such a suit expires on May 3, 1986.

URBAN MASS TRANSPORTATION ADMINISTRATION RESCISSION PROPOSAL

On October 1, 1985, the President reported to the Congress the deferral of $223.6 million appropriated to the Department of Transportation, Urban Mass Transportation Administration, for grants for public mass transportation systems. On December 19, 1985, the Congress passed legislation, the Continuing Appropriations Act for fiscal year 1986, which the President signed, expressly disapproving the deferral and directing that the funds be made available for obligation. Pub. L. No. 99-190, December 19, 1985. The UMTA budget authority was made available, briefly, pursuant to the Continuing Appropriations Act, but was not obligated.

On February 5, 1986, the President proposed to rescind the $223.6 million, which was subject to the earlier, disapproved deferral. Because the justification for the rescission is essentially identical to that which the Congress considered in December 1985 and rejected by law, we believe the current withholding of the $223.6 million is in violation of the Continuing Appropriations Act and the Impoundment Control Act.

As discussed above, section 1016 of the Act, 2 U.S.C. § 687, authorizes us to initiate civil action to compel release of the UMTA budget authority, but not until the expiration on May 3 of a 25-day waiting period. If the UMTA budget authority is not released by May 3, we will bring a civil action under section 1016 to require its release.

However, because the President proposed rescinding this budget authority, we presume he intended to withhold it, as authorized by section 1012(b) of the Act, 2 U.S.C. § 683(b), for only 45 days from the date he transmitted his rescission proposal to the Congress. For purposes of the UMTA withholding, the 45-day period expires April 15. We fully expect, therefore, that unless the Congress acts to rescind the UMTA budget authority, the funds will be released on April 16.

Sincerely yours,

MILTON J. SOCOLAR,
Acting Comptroller General
of the United States.

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